

## **REMARKS**

The Applicants have carefully considered the Office action dated October 1, 2009. By way of this response, the Applicants have amended claim 1. No new matter has been added. The Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested.

### **I. Claim Objection**

In light of the amendment to claim 1, the Applicants respectfully request withdrawal of the claim objection therefrom.

### **II. The Rejections under 35 USC § 103**

In the Office action, independent claim 1 was rejected under 35 USC § 103 as unpatentable over McAllister et al. (US 6,697,329) in view of Ashton et al. (US 6,181,679) and further in view of Heeren et al. (US 6,311,288).

#### **a. Independent Claim 1**

Independent claim 1 is in condition for allowance. Independent claim 1 is directed to a method and recites, among other things, providing a network management module in communication with first and second local access and transport areas. The combination of McAllister et al., Ashton et al., and Heeren et al. suggested in the Office action does not teach or suggest such a method.

McAllister et al. describe nodes (32) connected between customer premises equipment (CPE) (20a) in Montreal and CPE (20b) in Toronto. *McAllister et al.*, FIG. 2A and 6:8-12. McAllister et al. also describe a network management system (NMS) (46) that is connected to the nodes (32). *Id.*, 6:66-7:5. The Office action suggests that the CPEs (20a and 20b) being located in different cities constitutes first and second local access and transport areas (LATAs). However, a network management module in communication with first and second LATAs cannot be imputed as a teaching of McAllister et al. on the mere

notion that McAllister et al. describe CPEs located in different cities. While McAllister et al. describe that the NMS (46) is connected to the nodes (32), McAllister et al. do not teach or suggest that the nodes (32) are in separate LATAs. For example, all of the nodes (32) of McAllister et al. could be located in a single LATA while other nodes that are not shown or described could be located in a separate LATA.

The Office action interprets nodes (32A) and (32D) as nodes of separate LATAs by suggesting that node (32A) is located in Montreal and that node (32D) is located in Toronto. *Office Action dated October 1, 2009*, section 5. However, the locations of the nodes (32A) and (32D) are not specified in McAllister et al. On the contrary, McAllister et al. do not teach or suggest how the nodes (32) are arranged with respect to LATAs, whether the nodes (32) are located in separate LATAs, or whether the nodes (32) even operate in connection with LATA-defined areas.

Ashton et al. and Heeren et al. do not overcome the deficiencies of McAllister et al.

In view of the foregoing, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

**b. Independent Claim 13**

Independent claim 13 is in condition for allowance. Independent claim 13 is directed to a system and recites, among other things, a network management module in communication with first and second local access and transport areas. The combination of McAllister et al., Ashton et al., and Heeren et al. suggested in the Office action does not teach or suggest such a system. Accordingly, the Applicants respectfully submit that independent claim 13 and all claims dependent thereon are in condition for allowance.

### **III. Conclusion**

In view of the foregoing, the Applicants respectfully submit that this application is in condition for allowance and request an early favorable action on the merits. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if any such statement should become relevant by appearing in a rejection of any current or future claim).

The Commissioner is hereby authorized to charge any deficiency in the amount submitted or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC, at the address below.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

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**January 22, 2010**